

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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DUNKIN' DONUTS FRANCHISED	:
RESTAURANTS LLC,	:
a Delaware Limited Liability Company,	:
DD IP HOLDER LLC,	:
a Delaware Limited Liability Company,	:
BASKIN-ROBBINS FRANCHISED SHOPS LLC,	:
a Delaware Limited Liability Company,	:
BR IP HOLDER LLC,	:
a Delaware Limited Liability Company,	:
	:
Plaintiffs,	:
	:
v.	:
	:
	C.A. No. 07-CV-3612 (LMM)
	:
KNZ 110 th LEXINGTON, LLC,	:
a New York Limited Liability Company,	:
KNZ 161 BROADWAY DONUT, LLC,	:
a New York Limited Liability Company, and	:
KNZ 149 BROADWAY DONUT, LLC,	:
a New York Limited Liability Company,	:
	:
Defendants.	:
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PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Plaintiff Dunkin' Donuts Franchised Restaurants LLC, DD IP Holder LLC (unless otherwise specified, Dunkin' Donuts Franchised Restaurants LLC and DD IP Holder LLC are collectively referred to hereinafter as "Dunkin' Donuts" or "Dunkin'"), Baskin-Robbins Franchise Shops LLC and BR IP Holder LLC (unless otherwise specified, Baskin-Robbins Franchise Shops LLC and BR IP Holder LLC and BR IP Holder LLC are collectively referred to hereinafter as "Baskin-Robbins") hereby move to enjoin their franchisees, Defendants KNZ 110th Lexington, LLC, KNZ 161 Broadway Donut, LLC, and KNZ 149 Broadway Donut, LLC to cease violating at their Dunkin' Donuts and Baskin-Robbins shops the standards for health, sanitation, and safety set forth in Defendants' Franchise Agreements with Plaintiffs' and

Plaintiffs' operating manuals. At present, Defendants are in flagrant violation of those standards. For example, a recent inspection of Defendants' shop revealed numerous violations of health and safety standards, including evidence of pest (i.e. mouse droppings, dead roaches); equipment not properly cleaned including mold on equipment; paper liners exposed to various contamination; portion plates exposed to various contamination; food contact surfaces not protected from contamination and allergens; food products not stored at proper temperature; food products not properly labeled; food products not properly dated; dirt and debris in ice; food products left exposed without a cover; sick employees preparing food for customers; equipment and utensils not properly sanitized; and generally unclean and poorly maintained premises. Despite requests by Plaintiffs and ample opportunity to cure, Defendants refuse to correct this unacceptable situation. This is an action to effect an immediate cure of specific conditions currently posing a health or safety risk at Defendants' shops. These conditions are a material breach of the Franchise Agreements as well. Plaintiffs do not seek an order mandating future compliance, but only the cessation of an existing condition.

1. At all times relevant to this action Defendant KNZ 110th Lexington, LLC has been the owner and operator of a retail doughnut shop located at 1773 Lexington Avenue, New York, New York 10029 ("Lexington Avenue Shop") pursuant to a Franchise Agreement dated May 29, 2003.

2. At all times relevant to this action Defendant KNZ 161 Broadway Donut, LLC has been the owner and operator of a retail doughnut shop and retail ice cream store located at 3851 Broadway, New York, New York 10032 ("3851 Broadway Shop") pursuant to a Franchise Agreement dated November 23, 2004.

3. At all times relevant to this action Defendant KNZ 149 Broadway Donut, LLC has been the owner and operator of a retail doughnut shop and retail ice cream store located at 3600 Broadway, New York, New York 10031 (“3600 Broadway Shop”) pursuant to a Franchise Agreement dated April 6, 2005.

4. Plaintiffs’ representative recently inspected Defendants’ Shops and found numerous violations of health, sanitation, and safety standards. Despite notice by Plaintiffs and ample opportunity to cure, Defendants have failed to correct this situation.

5. By this Motion, Plaintiffs seek to enjoin Defendants to cease violating at Defendants’ Shops the standards for health, sanitation, and safety set forth in the Franchise Agreements between the parties and Plaintiffs’ operating manuals.

6. In support of this Motion, Plaintiffs rely on the accompanying Memorandum of Law, certifications, and exhibits.

WHEREFORE, Plaintiffs respectfully request that the Court grant their motion for a preliminary injunction and enjoin Defendants to cease violating at their Shop Plaintiffs’ standards for health, sanitation, and safety as identified on the Critical Food Safety and Sanitation Inspection forms respectively dated April 2, 2007 and April 5, 2007 within five (5) days of the date of the Court’s Order.

Respectfully submitted,

/s/ Ronald D. Degen

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Dated: May 11, 2007